

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

THE PETITIONS OF CERTAIN CHURCHES)
IN LOUISVILLE AND JEFFERSON COUNTY,)
KENTUCKY REQUESTING THAT THEY HAVE) CASE NO. 8796
THE OPTION OF PAYING BILLS FOR GAS)
AND ELECTRIC ON A BUDGET PLAN)

O R D E R

On January 20, 1983, the Commission received petitions from the Hazelwood Baptist Church and various other churches in Louisville and Jefferson County, Kentucky, expressing concern about higher energy costs, requesting the Commission to investigate whether it is justifiable or necessary for churches to pay energy bills without the benefit or option of paying on a "budget plan" basis, and further requesting that the Commission schedule a public hearing on the issue. 807 KAR 5:006, Section 11 (2)(a) (3), General Rules, provides that utilities must make a budget plan available to their residential customers.

LG&E responded to the churches' request, stating its concern that extension of budget plans would not end with churches, but rather would have to be offered to non-profit and charitable groups. LG&E also expressed concern that the extension of the budget plan to these groups would increase administrative costs. If the Commission decided to expand the budget plan to include

these groups, LG&E commented that a certification process should be established for those wanting to participate.

On April 28, 1983, the Commission held a hearing on the matter. Representatives from the churches and LG&E were present at the hearing and offered testimony. At the hearing, Reverend John Bush advocated the extension of budget plan availability to churches located throughout the state. The churches cited instances where Kentucky gas utilities were already offering budget plans to churches or other commercial customers. LG&E added to its previously stated position that it considered the Commission's regulations to bar the offering of budget plans to other groups beyond residential ratepayers.

Following the hearing, counsel for the churches and for LG&E filed memoranda on the issues of whether the Commission could validly require utilities to offer budget plans to churches and not to non-profit groups and whether the Commission could validly require utilities to offer budget plans to churches and non-profit groups, but not extend that privilege to all commercial customers. Both of these issues require an assessment of whether unjust or unreasonable discrimination is involved in violation of KRS 278.170.

Having reviewed the memoranda and the evidence of record, the Commission is of the opinion and hereby finds that:

1. 807 KAR 5:006, Section 11 (2)(a)(3) of the Commission's General Rules should not be construed so as to prohibit a utility from offering a budget plan to its customers, aside from just its residential ratepayers. This interpretation is

reflected in the Commission's recently proposed revision to that regulation, which clarifies that a utility is free to offer budget plans to other customer classes aside from the residential class.

2. If budget payment plans are offered to other classes besides residential customers, the entire class should have the option of a budget plan, unless a rational basis can be shown for treating groups within the class differently; otherwise, unreasonable discrimination would result.

3. It has not been demonstrated that churches alone, among commercial customers, can be provided the option of budget billing without raising serious constitutional challenges. However, charitable and eleemosynary institutions, generally, may be accorded this option, if a rational basis for treating that group differently from other commercial customers is shown. The record in this proceeding does not contain information from which that conclusion can be drawn, since the only information available is in regard to churches.

4. This proceeding should be dismissed.

IT IS THEREFORE ORDERED that:

1. 807 KAR 5:006, Section 11 (2)(a)(3) shall not be construed so as to prohibit a utility from offering a budget plan to other customers besides residential customers.

2. If a utility offers a budget plan to other classes besides the residential class, all members of that class shall be entitled to participate unless a rational basis is shown for treating a portion of a class differently.

3. This proceeding is hereby dismissed.

Done at Frankfort, Kentucky, this 30th day of October, 1985.

PUBLIC SERVICE COMMISSION

Richard D. Hermon
Chairman

Paul Wilson
Vice Chairman

John W. McLean
Commissioner

ATTEST:

Secretary